

Honorable Robert S. Lasnik



08-CV-01286-DISCL

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ROBERT AND BEVERLY HARDIE, on  
behalf of themselves and others similarly  
situated,

Plaintiffs,

v.

COUNTRYWIDE HOME LOANS  
SERVICING, L.P.

Defendant.

No. C 08-cv-1286RSL

FINAL ORDER AND JUDGMENT  
APPROVING SETTLEMENT,  
CERTIFYING SETTLEMENT CLASS,  
AND DISMISSING ACTION

This matter having come before the Court on September 30, 2010, upon the Motion of plaintiffs Robert and Beverly Hardie (the "Hardies" or "Representative Plaintiffs"), individually and on behalf of a class of persons, for final approval of a settlement reached between the Parties, and upon review and consideration of the Settlement Agreement dated April 8, 2010 (the "Settlement Agreement" or "Agreement"), the exhibits to the Settlement Agreement, the evidence and arguments of counsel presented at the Court Approval Hearing, and the submissions filed with this Court in connection with the Court Approval Hearing, IT IS HEREBY ORDERED and adjudged as follows:

1           1.     The Settlement Agreement (attached hereto as Exhibit A) is hereby  
2 incorporated by reference into this Final Order and Judgment Approving Settlement,  
3 Certifying Settlement Class, and Dismissing Action ("Order"), and is hereby adopted by this  
4 Court. Capitalized terms in this Order shall, unless otherwise defined, have the same meaning  
5 as in the Agreement.

6           2.     For settlement purposes only, the Settlement Class, as that term is defined in  
7 Paragraph 1.36 of the Agreement, is found to meet the relevant requirements of Fed. R. Civ.  
8 P. 23(a) and (b)(3).

9           3.     Solely for the purpose of the Settlement and pursuant to Fed. R. Civ. P. 23(a)  
10 and (b)(3), the Court hereby finally certifies the following Settlement Class:

11           All persons who, during the period from July 27, 2002 to April 8, 2010, paid a  
12 Recording Fee and/or a Substitution Fee to Defendant in connection with a Loan  
secured by real property located in the State of Washington.

13           If, for any reason, the Settlement does not become effective, this certification shall be  
14 null and void, and shall not be used or referred to for any purpose in the Action or any other  
15 action or proceeding.

16           4.     The Court appoints Representative Plaintiffs as representatives of the  
17 Settlement Class, and finds that they meet the requirements of Fed. R. Civ. P. 23.

18           5.     The Court appoints the following lawyers as counsel to the Settlement Class,  
19 and finds that these counsel meet the requirements of Fed. R. Civ. P. 23:

20           Rob Williamson  
21 WILLIAMSON & WILLIAMS  
22 187 Parfitt Way S.W., Ste. 25  
23 Bainbridge Island, Washington 98110  
(206) 780-4447

24           Guy W. Beckett  
25 BERRY & BECKETT, PLLP  
26 1708 Bellevue Avenue  
Seattle, Washington 98122  
(206) 441-5444

1           6.       As set forth in the Class Notice, this Court convened the Court Approval  
2 Hearing at 8:30 a.m. on September 30, 2010, in Courtroom 15106 of the United States District  
3 Court for the Western District of Washington.

4           7.       Pursuant to Fed. R. Civ. P. 23(e), the Settlement of the Action, as embodied in  
5 the terms of the Settlement Agreement and the Modification, is hereby finally approved as a  
6 fair, reasonable, and adequate settlement of the Action in light of the factual, legal, practical,  
7 and procedural considerations raised by them.

8           8.       The Court finds that notice previously given to Class Members in the Action  
9 was the best notice practicable under the circumstances, and satisfies the requirements of due  
10 process and Fed. R. Civ. P. 23. The Court further finds that, because (a) adequate notice has  
11 been provided to all Class Members and (b) all Class Members have been given the  
12 opportunity to object to, and/or request exclusion from, the Settlement, it has jurisdiction over  
13 all Class Members. The Court further finds that all requirements of statute (including but not  
14 limited to 28 U.S.C. § 1715), rule, and state and federal constitutions necessary to effectuate  
15 this Settlement have been met and satisfied.

16           9.       After due consideration of Representative Plaintiffs' likelihood of success at  
17 trial; the range of Representative Plaintiffs' possible recovery; the complexity, expense, and  
18 duration of the litigation; the lack of any specific opposition to the Settlement; the reaction of  
19 Class Members to the Settlement; the state of proceedings at which the Settlement was  
20 achieved; the nature of the negotiations leading to the Settlement; the litigation risks to  
21 Representative Plaintiffs and the Class Members; all written submissions, affidavits, and  
22 arguments of counsel; and after notice and a hearing, this Court finds that the terms of the  
23 Settlement and the Agreement, including all exhibits thereto are fair, adequate and reasonable,  
24 and are in the best interest of the Settlement Class. Accordingly, the Agreement should be  
25 and is approved and shall govern all issues regarding the Settlement and all rights of the  
26 Parties, including the Class Members. To the extent the document filed with the Court by

1 Sharol Diane Turner on August 27, 2010 is considered as an objection to the Settlement, the  
2 objection is overruled.

3 10. Upon consideration of Class Counsel's application for attorneys' fees and  
4 litigation costs, the aggregate amount of the Attorney Fee Award is hereby fixed at One  
5 Hundred Two Thousand, Five Hundred, and 00/100 Dollars (\$ 102,500.00). This aggregate  
6 award covers, without limitation, any and all claims for attorneys' fees and litigation costs  
7 incurred by (a) Plaintiffs' Counsel, (b) any other counsel representing (or purporting to  
8 represent) Representative Plaintiffs or Class Members (or any of them), and (c)  
9 Representative Plaintiffs or the Class Members (or any of them) in connection with or related  
10 to any matter in the Action, the Settlement, the administration of the Settlement, and any of  
11 the matters or claims within the scope of the Release, as embodied in paragraphs 4.01 and  
12 4.02 of the Agreement.

13 11. Upon consideration of Representative Plaintiffs' application for an award to  
14 Representative Plaintiff, the amount of the Representative Plaintiffs Award is hereby fixed at  
15 Five Thousand and 00/100 Dollars (\$ 5,000.00).

16 12. In accordance with the Agreement, and to effectuate the Settlement, Defendant  
17 shall cause:

18 (a) the Benefit Checks to be provided to Class Members who timely  
19 submit a Valid Claim Form in accordance with the terms of the Agreement;

20 (b) the aggregate Attorney Fee Award made in Paragraph 10 above to be  
21 disbursed to Class Counsel in accordance with the terms of the Agreement;

22 (c) the Representative Plaintiffs Award made in Paragraph 11 above to be  
23 disbursed to Class Counsel in accordance with the terms of the Agreement; and

24 (d) the Settlement Administration Costs, to be paid to the Settlement  
25 Administrator in accordance with the terms of the Agreement.  
26

1           13.     The Action and all claims against Countrywide Home Loans Servicing, L.P.  
2 are hereby dismissed on the merits and with prejudice, and the Clerk is directed to enter this  
3 Judgment to that effect in the Action. The judgment shall be without costs to any Party.

4           14.     Representative Plaintiffs, Plaintiffs' Counsel and each Class Member (except  
5 those who are Successful Opt-Outs and appear on a list that is on file with the Court under  
6 seal to protect the privacy of those persons, which list is incorporated herein and made a part  
7 hereof) shall be forever bound by this Order and the Agreement including the Release and  
8 covenants not to sue set forth in paragraphs 4.01 and 4.02 of the Agreement providing as  
9 follows:

10           4.01    Upon Final Approval, and in consideration of the promises and covenants  
11 set forth in this Agreement, (i) Representative Plaintiffs and each Class Member  
12 who is not a Successful Opt-Out, and each of their respective spouses, children,  
13 executors, representatives, guardians, wards, heirs, estates, successors,  
14 predecessors, next friends, joint tenants, tenants in common, tenants by the  
15 entirety, co-borrowers, co-obligors, co-debtors, legal representatives, attorneys,  
16 agents and assigns, and all those who claim through them or who assert claims (or  
17 could assert claims) on their behalf (including the government in the capacity as  
18 *parens patriae* or on behalf of creditors or estates of the releasees), and each of  
19 them (collectively and individually, the "Releasing Persons"), and (ii) Class  
20 Counsel and each of their past and present law firms, partners, or other employers,  
21 employees, agents, representatives, successors, or assigns (the "Counsel Releasing  
22 Parties") will be deemed to have completely released and forever discharged the  
23 Released Persons from any and all past, present and future claims, counterclaims,  
24 lawsuits, set-offs, costs, losses, rights, demands, charges, complaints, actions,  
25 causes of action, obligations, or liabilities of any and every kind, including  
26 without limitation (i) those known or unknown or capable of being known, and  
(ii) those which are unknown but might be discovered or discoverable based upon  
facts other than or different from those facts known or believed at this time,  
including facts in the possession of and concealed by any Released Person, and  
(iii) those accrued, unaccrued, matured or not matured, all from the beginning of  
the world until today (collectively, the "Released Rights"), that arise out of in any  
way relate or pertain to (a) Released Rights that were asserted, or attempted to be  
asserted, or could have been asserted in the Action; (b) the charging and/or  
collection of all and/or any portion of a Substitution Fee; (c) the charging and/or  
collection of all and/or any portion of a Substitution Fee, and/or any portion of a  
Recording Fee for and/or associated with the costs to record a substitution of  
trustee document or other similar document, in an amount in excess of the sums  
secured by the security instrument given by a Class Member as part of the Loan;  
(d) written and oral disclosures, representations, omissions, acts, conduct, or  
statements concerning Substitution Fees; (e) written and oral disclosures,  
representations, omissions, acts, conduct or statements concerning whether all  
and/or any portion of a Recording Fee included amounts for and/or associated  
with the costs to record a substitution of trustee document or other similar

1 document; (f) the claims asserted or that could have been asserted in the Action;  
2 and/or (g) any violation and/or alleged violation of state and federal law, whether  
3 common law or statutory, arising from or relating to the conduct and/or omissions  
4 described in Paragraph 4.01(a)-(g) above. This Release shall be included as part  
5 of any judgment, so that all released claims and rights shall be barred by  
6 principles of *res judicata*, collateral estoppel, and claim and issue preclusion.  
7 4.02 Representative Plaintiffs and each of the Releasing Persons and Counsel  
8 Releasing Parties acknowledges that he or she may hereafter discover facts other  
9 than or different from those that he or she knows or believes to be true with  
10 respect to the subject matter of the claims released pursuant to the terms of  
11 Paragraph 4.01, but each of those individuals expressly agree that, upon entry of  
12 the final judgment contemplated by this Settlement Agreement, he and she shall  
13 have waived and fully, finally, and forever settled and released any known or  
14 unknown, suspected or unsuspected, asserted or unasserted, contingent or non-  
15 contingent claim with respect to the claims released pursuant to Paragraph 4.01,  
16 whether or not concealed or hidden, without regard to subsequent discovery or  
17 existence of such different or additional facts.

18 15. The Release set forth in paragraph 14 above and in the Agreement shall have  
19 *res judicata* and other preclusive effect in all pending and future claims, lawsuits, other  
20 proceedings maintained by or on behalf of Representative Plaintiffs, Class Members (except  
21 the Successful Opt-Outs) and/or the Class Releasing Parties concerning matters and claims  
22 that were or could have been asserted in the Action, and/or are encompassed within the scope  
23 of the Release, as embodied in paragraphs 4.01 and 4.02 of the Agreement.

24 16. Countrywide Home Loans Servicing, L.P. and any Released Person are hereby  
25 released and forever discharged by Representative Plaintiffs, Class Members (except the  
26 Successful Opt-Outs) and the Class Releasing Parties from all matters and claims within the  
scope of the Release, as embodied in paragraphs 4.01 and 4.02 of the Agreement.

17 17. Representative Plaintiffs, Plaintiffs' Counsel and each and every Class  
18 Member who is not a Successful Opt-Out are permanently enjoined from bringing, joining,  
19 assisting in, or continuing to prosecute against Countrywide Home Loans Servicing, L.P. or  
20 any Released Person any claim that was brought in the Action for which a release and  
21 covenant not to sue is being given under the Agreement.

22 18. This Order, the Agreement, any document referred to in this Order, any action  
23 taken to carry out this Order, any negotiations or proceedings related to any such documents



1 or actions, and the carrying out of and entering into the terms of the Agreement, shall not be  
2 construed as, offered as, received as or deemed to be evidence, impeachment material, or an  
3 admission or concession with regard to any fault, wrongdoing or liability on the part of  
4 Defendant whatsoever in the Action, or in any other judicial, administrative, regulatory action  
5 or other proceeding; provided, however, this Order may be filed in any action or proceeding  
6 against or by Countrywide Home Loans Servicing, L.P. to enforce the Agreement or to  
7 support a defense of *res judicata*, collateral estoppel, release, accord and satisfaction, good  
8 faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue  
9 preclusion or similar defense or counterclaim.

10 19. The Parties may, by mutual agreement and with the Court's approval, amend,  
11 modify or expand the provisions of the Agreement, including all exhibits thereto, subject to  
12 the conditions and limitations as set forth in the Agreement.

13 20. In the event that Final Approval is not achieved for any reason, then the  
14 Agreement, this Order, the certification of the Settlement Class and all other terms herein,  
15 together with any other orders or rulings arising from or relating to the Agreement, shall be  
16 rendered null and void and be vacated.

17 21. Except as expressly provided for in this Order, the Settlement Agreement shall  
18 govern all matters incident to the administration of the Settlement hereafter, including as to  
19 deadlines, until further order of this Court or agreement of the Parties.

20 22. Without in any way affecting the finality of this Order and Judgment for  
21 purposes of appeal, this Court hereby retains jurisdiction as to all matters relating to the  
22 interpretation, administration, implementation, effectuation and/or enforcement of the  
23 Agreement and/or this Order.  
24  
25  
26

1 Dated this 30<sup>th</sup> day of September, 2010.

2 

3 Robert S. Lasnik  
4 United States District Judge  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26